

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.39199 of 2004
NANAK CHANDRA GUPTA & ORS
Versus
STATE OF BIHAR & ANR

9 2.7.2008 Learned counsel is permitted to make necessary correction with regard to court's name in paragraph-1 of the application.

Heard learned counsel for the petitioners and learned counsel for the State.

However, none appears on behalf of opposite party no.2 to argue the matter.

This application has been filed for quashing the order dated 16.4.2004 passed by learned Sub-divisional Magistrate, Bhabua in Complaint Case no. 712/02 whereby and whereunder he had taken cognizance under section 498A of the Penal Code against the petitioners accused and issued summons for their appearance.

Shortly stated the case of the complainant/opposite party no.2, as put in the petition of complaint is that she was married with late Manoj Kumar Gupta son of petitioner no.1 on 26.4.1999 at Baidyanath Dham, Deoghar temple in which several presentations were given. After marriage she began to live with her husband at Mithapur, Patna. It is further said that she went to her naihar at village Bahuara, P.S. Dildarnagar, District Gazipur with her husband where her husband died on 31.5.2001 and thereafter she returned to Patna and again taken back to Bahuara as she was pregnant. In the

month of August, 2001 she gave birth to a daughter. On being informed her father in law came and brought her to Mithapur, Patna. It has been alleged that at Patna petitioners tried to obtain her signature on a plain paper to grab the property of her husband who had business at Patna. When she refused to sign papers she was ousted from the house and inspite of social pressure she was not accepted by the petitioners and ultimately on 26.7.2002 accused persons/petitioners ousted her from the house. She then returned to her Naihar. It appears that a petition of complaint was filed before the Chief Judicial Magistrate, Bhabua on 2.8.2002.

It appears that the complainant was examined on solemn affirmation and during inquiry under section 202 Cr.P.C. one witness was examined and the learned Magistrate after being satisfied that there was sufficient ground for proceeding against the accused petitioners under section 498A of the Penal Code, issued summons against them for appearance.

The arguernt of learned counsel is that the court at Bhabua has no territorial jurisdiction to entertain the complaint. He submitted that no part of cause of action took place at Bhabua. There is no allegation even of conspiracy.

As per allegation the marriage was performed at Deoghar. After marriage the complainant was brought to Patna by her husband where she started living. Complainant's naihar is at Gazipur in the State of U.P.

I find substance in the argument of learned counsel

that no part of the occurrence was committed at Bhabua. It is not clear why the complainant decided to file complaint at Bhabua.

In the facts and circumstances of the case, the complaint case filed at Bhabua is not maintainable.

For the aforesaid reasons, this application is allowed and the order of cognizance dated 16.4.2004 is hereby quashed.

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(M.Saran,J)

